

CHAPTER 110
FAMILY AND GROUP DAY CARE HOMES

[Prior to 7/1/83, Social Services[770] Ch 110]
[Prior to 2/11/87, Human Services[498]]

DIVISION I
FAMILY AND GROUP DAY CARE HOME REGISTRATION

PREAMBLE

This division establishes registration procedures for family and group day care homes and group day care-joint registration homes. Included are application and renewal procedures, standards for providers, and procedures for compliance checks and complaint investigation.

441—110.1(237A) Definitions.

“*Adult*” means a person aged 18 or older.

“*Assistant*” means a responsible person aged 14 or older.

“*Child*” means a person under 18 years of age.

“*Child day care*” means the care, supervision, or guidance of a child by a person other than the parent, guardian, relative or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home. Child day care shall not mean special activity programs that meet on a regular basis such as music or dance classes, organized athletics or sports programs, scouting programs, or hobby or craft classes or clubs.

“*Department*” means the department of human services.

“*Family day care home*” means a program which provides child day care to no more than 6 children at any one time, including the provider’s own preschool age children. However, a registered or unregistered family day care home may provide care for more than 6 but less than 12 children at any one time for a period of less than two hours, provided that each child in excess of 6 children is attending school in kindergarten or a higher grade level. The provider’s own children attending kindergarten or a higher level are not included in the total count. There can be no more than 4 children under the age of two years at any one time.

INCLEMENT WEATHER EXCEPTION: A family day care home may provide care for more than 6 but less than 12 children for two hours or more during a day with inclement weather following the cancellation of school classes. The home must have prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home. The home must have a responsible individual, age 14 or older, on duty to assist the home provider when more than 6 children are present under this exception. In addition, one or more of the following conditions shall apply to each child present in the home in excess of 6 children:

1. The home provides care to the child on a regular basis for periods of less than two hours.
2. If the child was not present in the family day care home, the child would be unattended.
3. The home regularly provides care to a sibling of the child.

“Group day care home” means a program which provides child day care to no more than 6 pre-school age children at any one time, including the provider’s own children not attending kindergarten or a higher grade level. A group day care home provider may also provide care for more than 6 but less than 12 children at any one time, provided that each child in excess of 6 children is attending school in kindergarten or a higher grade level, and there is an assistant in the home to assist in the care of children when any child in excess of 6 is provided care for longer than two hours. In addition to the above numbers, a registered group day care home may provide care for more than 11 but less than 16 children for a period of less than two hours at any time. The provider’s own children attending kindergarten or a higher grade level are not included in the total count. There can be no more than 4 children under the age of 24 months at any one time.

INCLEMENT WEATHER EXCEPTION: A registered group day care home may provide care for more than 11 but less than 16 children for a period of two hours or more during a day with inclement weather following the cancellation of school classes. The home must have a prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home. In addition, one or more of the following conditions shall apply to each child present in the home in excess of 11 children during a period of inclement weather:

1. The group day care home provides care to the child on a regular basis for periods of less than two hours.
2. If the child was not present in the group day care home, the child would be unattended.
3. The group day care home provides care to a sibling of the child.

“Group day care home-joint registration” means a program which provides child day care for more than 6 but less than 12 children, of whom no more than 4 children present may be less than 24 months of age, and not more than 10 children present shall be 24 months of age or older but not attending school in kindergarten or a higher grade level. The combined total number of these two categories of children shall not exceed 11. In a joint registration group day care home, the joint holder of the certificate of registration must be an adult, and must meet the same requirements as those listed for the provider. In addition to the above numbers, a joint registration group day care home may provide care for more than 11 but less than 16 children for a period of less than two hours at any time, and more than two hours when the inclement weather exception conditions are met.

INCLEMENT WEATHER EXCEPTION: A registered group day care home may provide care for more than 11 but less than 16 children for a period of two hours or more during a day with inclement weather following the cancellation of school classes. The home must have a prior written approval from the parent or guardian of each child present in the home concerning the presence of excess children in the home. In addition, one or more of the following conditions shall apply to each child present in the home in excess of 11 children during a period of inclement weather:

1. The group day care home provides care to the child on a regular basis for periods of less than two hours.
2. If the child was not present in the group day care home, the child would be unattended.
3. The group day care home provides care to a sibling of the child.

“Inclement weather” means weather which is so severe as to cause regularly scheduled school classes to be canceled, either for the entire day or that portion of the day remaining when classes are dismissed early.

“Parent” means parent or legal guardian.

“Provider” means the adult listed on the registration certificate for a family or group day care home, or the adult who is responsible and provides the child day care in an unregistered family day care home. In a group day care home-joint registration, each individual is considered to be the provider, registrant, owner, or operator as used in this chapter.

“Registration” means the process by which child day care providers certify that they comply with rules adopted by the department. This process is voluntary for family day care home providers, and mandatory for group day care home providers.

“Registration certificate” means the written document issued by the department of human services to publicly state that the provider has certified in writing compliance with the minimum requirements for registration of a family or group day care home or group day care home-joint registration.

441—110.2(237A) Application for registration.

110.2(1) *Family day care home.* A family day care home shall make application for registration on Application for Family Day Care Home Registration, SS-1105-3 provided by the county office of the department. The family day care home shall use Form SS-1105-3 to inform the department of any changes in circumstances that would affect their registration.

110.2(2) *Group day care home.* A group day care home shall make application for registration on Application for Group Day Care Home Registration, SS-1115-3 provided by the county office of the department. The group day care home shall use Form SS-1115-3 to inform the department of any changes in circumstances that would affect their registration.

110.2(3) *Group day care home-joint registration.* A group day care home-joint registration shall make application for registration on Application for Group Day Care Home-Joint Registration, Form 470-3384, provided by the county office of the department. The group day care home-joint registration shall use Form 470-3384 to inform the department of any changes in circumstances that would affect their registration.

441—110.3(237A) Renewal. Renewal of registration shall be completed yearly.

441—110.4(237A) Issuance of certificate. The department shall issue a registration certificate upon receipt from the provider of a signed statement of compliance with the requirements for registration.

441—110.5(237A) Standards. The provider shall certify that the day care home meets the following conditions:

110.5(1) Health and safety. Conditions in the home are safe, sanitary, and free of hazards. This shall include at a minimum:

a. A non-pay, working telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. The number for each child’s parent, for a responsible person who can be reached when the parent cannot, and for the child’s physician shall be readily accessible by the telephone.

b. All medicines and poisonous, toxic, or otherwise unsafe materials secured from access by a child.

c. First-aid supplies which include, but are not limited to, adhesive bandages, antiseptic cleansing materials, tweezers, and disposable plastic gloves.

d. Medications given only with the parent's or doctor's written authorization. Each prescribed medication shall be accompanied by a physician's or pharmacist's direction. Both nonprescription and prescription medications shall be in the original container with directions intact and labeled with the child's name. All medications shall be stored properly and, when refrigeration is required, shall be stored in a separate, covered container so as to prevent contamination of food or other medications. All medications shall be stored so they are inaccessible to children.

e. Electrical wiring maintained with all accessible electrical outlets safely capped and electrical cords properly used. Improper use would include running cords under rugs, over hooks, through door openings, or other use that has been known to be hazardous.

f. Combustible materials are kept away from furnaces, stoves, or water heaters.

g. Safety barriers at stairways for children not attending kindergarten or a higher grade level and for special needs children.

h. A safe outdoor play area maintained in good condition throughout the year, fenced off when located on a busy thoroughfare or near a hazard which may be injurious to a child, and with both sunshine and shade areas. The play area shall be kept free from litter, rubbish, and flammable materials and shall be free from contamination by drainage or ponding of sewage, household waste, or storm water.

i. Annual laboratory analysis of a private water supply to show satisfactory bacteriological quality. When children under the age of two are to be cared for, the analysis shall include a nitrate analysis. When private water supplies are determined unsuitable for drinking, commercially bottled water or water treated through a process approved by the health department or designee shall be provided.

j. Emergency plans in case of fire or tornado written and posted by the primary and secondary exits. The plans shall include a diagram with the exits and an outside meeting place noted.

k. Fire and tornado drills practiced monthly and documentation evidencing compliance with monthly practice kept on file by the provider.

l. In order to prevent burns, a safety barrier shall surround any heating stove or heating element.

110.5(2) Provider. The provider shall meet the following requirements:

a. Is 18 years of age or older.

b. Gives careful supervision at all times.

c. Frequently exchanges information with the parent of each child to enhance the quality of care.

d. Gives consistent, dependable care, and is capable of handling emergencies. The provider shall maintain a valid first-aid and cardiopulmonary resuscitation (CPR) certificate to be completed within one year of registration. Providers who have a current certificate of registration shall be certified in first aid and CPR by March 1, 1997.

e. Is present at all times except if emergencies occur or when an absence is planned, at which time good substitute care is provided. When an absence is planned, the parents shall be given at least 24 hours' prior notice.

110.5(3) Activity program. There shall be an activity program which promotes self-esteem and exploration and includes:

a. Active play.

b. Quiet play.

c. Activities for large muscle development.

d. Activities for small muscle development.

e. Play equipment and materials in a safe condition, for both indoor and outdoor activities which are developmentally appropriate for the ages and number of children present.

110.5(4) The certificate of registration shall be displayed in a conspicuous place.

110.5(5) Number of children. The number of children shall conform to the following standards:

a. No greater number of children shall be received for care at any one time than the number authorized on the registration certificate.

b. The total number of children, including the provider's own infants and children not attending kindergarten or a higher grade level, in a family day care home at any one time shall not exceed 6 except when the provider provides care for up to 5 additional children attending kindergarten or a higher grade level, not including the provider's own school-age children, for not more than two hours before school and not more than two hours after school for a maximum of 11 children at any one time. There can be no more than 4 children under the age of two years at any one time. In determining the number of children cared for at any one time in a registered or unregistered family day care home, if the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is not attending kindergarten or a higher grade level, the child shall be considered to be receiving child day care from the person and shall be counted as one of the children cared for in the home. If the person who operates or establishes the home is a child's parent, guardian, relative, or custodian and the child is attending kindergarten or a higher grade level, the child shall not be considered to be receiving child day care from the person and shall not be counted as one of the children cared for in the home.

c. The total number of children not attending kindergarten or a higher grade level, including the provider's own infants and children not attending kindergarten or a higher grade level, in a group day care home at any one time shall never exceed 6. The provider may care for up to 5 additional children attending kindergarten or a higher grade level, not including the provider's own school-age children, for less than two hours at any one time for a maximum of 11 children at any one time. When any child in excess of 6 is provided care for longer than two hours, an assistant is required in the group day care home to assist in the care of children. Additionally, the group day care home may provide care for more than 11 but less than 16 children for a period of less than two hours at any one time as long as all the children in excess of 6 attend kindergarten or a higher grade level. There shall never be more than 4 children under two years of age present at any one time.

d. The total number of children not attending kindergarten or a higher grade level, including the provider's own infants and children not attending kindergarten or a higher grade level, in a group day care home at any one time shall never exceed 11. The providers may care for up to 4 additional children attending kindergarten or a higher grade level, not including the provider's own school-age children, for less than two hours at any one time. If there are more than 6 children present for a period of two hours or more, the group day care home must have the second adult of the joint registration present. There shall never be more than 4 children less than 24 months of age present, there shall never be more than 10 children present who are 24 months of age or older but not attending school in kindergarten or a higher grade level, and the total of these two groups of children shall never exceed 11.

110.5(6) Discipline. Discipline shall conform to the following standards:

a. Corporal punishment including spanking, shaking and slapping shall not be used.

b. Punishment which is humiliating or frightening or which causes pain or discomfort to the child shall not be used.

c. Punishment shall not be administered because of a child's illness, or progress or lack of progress in toilet training, nor shall punishment or threat of punishment be associated with food or rest.

d. No child shall be subjected to verbal abuse, threats, or derogatory remarks about the child or the child's family.

e. Discipline shall be designed to help the child develop self-control, self-esteem, and respect for the rights of others.

110.5(7) Meals. Regular meals and midmorning and midafternoon snacks shall be provided which are well-balanced, nourishing, and in appropriate amounts as defined by the USDA Child and Adult Care Food Program. Children may bring food to the day care home for their own consumption, but shall not be required to provide their own food.

110.5(8) Children's files. An individual file shall be maintained for each child and updated annually or when the provider becomes aware of changes. The file shall contain:

a. Identifying information including, at a minimum, the child's name, birth date, parent's name, address, telephone number, special needs of the child, and the parent's work address and telephone number.

b. Emergency information including, at a minimum, where the parent can be reached, the name, street address, city and telephone number of the child's regular source of health care, and the name, telephone number, and relationship to the child of another adult available in case of emergency.

c. A signed medical consent from the parent authorizing emergency treatment.

d. For each preschool-age child, on the first day of attendance, an admission physical examination report signed by a licensed physician or designee in a clinic supervised by a licensed physician. The date of the physical examination shall not be more than 12 months prior to the first day of attendance at the day care home. The written report shall include past health history, status of present health, allergies and restrictive conditions, and recommendations for continued care when necessary.

e. A statement of health condition signed by a physician or designee shall be thereafter submitted annually from the date of the admission physical.

f. A list signed by the parent which names persons authorized to pick up the child. The authorization shall include the name, telephone number, and relationship of the authorized person to the child.

g. A signed and dated immunization card provided by the state department of public health shall be on file for each child enrolled. For the school-age child, a copy of the most recent immunization record shall be acceptable.

h. For each school-age child, on the first day of attendance, documentation of a physical examination that was completed at the time of school enrollment or since.

i. Written permission from the parent for their child to attend activities away from the day care home. The permission shall include:

(1) Times of departure and arrival.

(2) Destination.

(3) Persons who will be responsible for the child.

110.5(9) A provider file shall be maintained and shall contain the physician's signed statement obtained at the time of the first registration, and at least every three years thereafter, on all members of the provider's household that may be present when children are in the home, that the provider and members of the provider's household are free of diseases or disabilities which would prevent good child care.

110.5(10) A Request for Non-Law Enforcement Record Check, Form 595-1396, shall be completed on the provider and all persons living or working in the same home.

110.5(11) A Request for Child Abuse Information, Form SS-1606-0, shall be completed concerning the provider and all persons living or working in the same home.

110.5(12) A provider file shall contain certification of a minimum of two hours of training relating to the identification and reporting of child abuse pursuant to Iowa Code section 232.69.

110.5(13) Training. The provider file shall contain certificates or training verification documentation for the following required training:

a. During the first six months of registration as a family or group day care home, the provider shall receive two hours of child abuse and neglect mandatory reporter training.

b. During the first year of registration as a family or group day care home and the first year a non-registered family day care home is under a department certificate agreement, the provider shall receive:

(1) Certification in American Red Cross or American Heart Association infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent CPR certification approved by the department.

(2) Certification in American Red Cross infant, child, and adult first-aid or equivalent certification approved by the department.

(3) Two hours of health and safety training.

c. During the second year of registration as a family or group day care home and the second year a nonregistered family day care home is under department certificate agreement, the provider shall receive a minimum of ten hours of training, chosen from the following categories:

(1) Ages and stages.

(2) Developmentally appropriate programming.

(3) Guidance and discipline.

(4) Nutrition.

(5) Business practices.

d. During the third year of registration and each successive year as a family or group day care home and the third year and each successive year as a nonregistered family day care home under department certificate agreement, the provider shall receive two hours of training in a subject of the provider's choice.

e. In addition, the provider shall receive two hours of child abuse and neglect mandatory reporter training every five years and maintain CPR certification and first-aid certification.

f. Providers who are department registered and nonregistered under department certificate agreement as of March 1, 1996, will be allowed one year for the completion of the first-year training requirements, and a second year for completion of the second-year training requirements.

g. Both of the individuals who are listed on a group day care home-joint registration are required to meet the training requirements.

441—110.6(237A) List of registered homes. The county offices of the department shall maintain a current list of registered family and group day care homes and group day care homes-joint registration as a referral service to the community.

441—110.7(237A) Denials and revocations.

110.7(1) Registration shall be denied or revoked if a hazard to the safety and well-being of a child is found by the department of human services, and the provider cannot or refuses to correct the hazards, even though the hazard may not have been specifically listed under the health and safety rules.

110.7(2) Record shall be kept in an open file of all denials or revocations of registration and the documentation of reasons for denying or revoking the registration.

110.7(3) The department shall submit record checks for each registrant, staff member, and anyone living in the home to determine whether they have any founded child abuse reports or criminal convictions. Form SS-1606-0, Request for Child Abuse Information, and Form 595-1396, Request for Non-Law Enforcement Record Check, shall be used for this purpose.

a. If there is a record of founded child abuse or a criminal conviction for the registrant, a staff member, or anyone living in the home, the registration shall be denied or revoked, unless an evaluation of the abuse or crime determines that the abuse or criminal conviction does not warrant prohibition of registration. In an evaluation, the department and the registrant for an employee of the registrant shall consider the nature and seriousness of the abuse or crime, the time elapsed since the commission of the abuse or crime, the circumstances under which the crime or abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of crimes or abuses committed by the person. The person with the criminal conviction or founded child abuse report shall complete and return Form 470-2310, Record Check Evaluation, within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame shall result in denial or revocation of the license.

b. The department may permit a person who is evaluated to be registered, employed, or to reside in, or to continue to be registered, employed, or to reside in a registered facility, if the person complies with the department's conditions relating to the person's registration, employment, or residence, which may include completion of additional training. For an employee of a registrant, these conditional requirements shall be developed with the registrant. The department has final authority in determining whether prohibition of the person's registration, employment, or residence is warranted and in developing any conditional requirements.

c. If the registrant, staff member, or anyone living in the home has been convicted of a simple misdemeanor or of a serious misdemeanor that occurred five or more years prior to the application, the evaluation and decision may be made by the regional administrator or designee and the registrant for an employee of the registrant. The regional administrator or designee shall notify the registrant and the employee of the registrant of the results of the evaluation using Form 470-2386, Record Check Decision.

d. If the registrant, staff member, or anyone living in the home has a founded abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, the evaluation shall be initially conducted by the regional administrator or designee and the registrant for an employee of the registrant.

(1) If the regional administrator or designee and the registrant for an employee of the registrant determine that the crime or abuse does warrant prohibition of registration, the regional administrator or designee shall notify the individual on whom the evaluation was completed, and the registrant for an employee of the registrant of the results of the evaluation using Form 470-2386, Record Check Decision.

(2) If the regional administrator or designee and the registrant for an employee of the registrant believe that the abuse or criminal conviction should not warrant prohibition of registration, the regional administrator or designee shall provide copies of the child abuse report or criminal history record, Form 470-2310, Record Check Evaluation, and Form 470-2386, Record Check Decision, to the Department of Human Services, Administrator, Division of Adult, Children and Family Services, Hoover State Office Building, Des Moines, Iowa 50319. Within 30 days the administrator shall determine whether the abuse or crime merits prohibition of registration, and shall notify the regional administrator or designee in writing of that decision. The regional administrator or designee shall notify the individual on whom the evaluation was completed, and the registrant for an employee of the registrant using Form 470-2386, Record Check Decision.

110.7(4) Letter of revocation. A letter received by an owner or operator of a registered day care home initiating action to deny or revoke the day care home's registration shall be conspicuously posted where it can be read by parents or any member of the public. The letter shall remain posted until resolution of the action to deny or revoke an owner's or operator's certificate of registration.

110.7(5) If the department has denied or revoked a registration because the provider has continually or repeatedly failed to operate a registered day care home in compliance with Iowa Code chapter 237A and 441—Chapter 110, the person shall not own or operate a registered facility for a period of six months from the date the registration is denied or revoked. The department shall not act on an application for registration submitted by the applicant or provider during the six-month period.

441—110.8(237A) Complaints. A record of all unsubstantiated complaints received shall be kept by the department in a closed file and there shall be documented resolutions of all complaints. Contents of this file shall be available to the registered provider except that disclosure of the identity of the complainant shall be withheld unless expressly waived by the complainant. A record of all substantiated complaints and regulatory violations shall be kept by the department in the regulatory file and shall be available to the public upon request, except that disclosure of the identity of the complainant shall be withheld unless expressly waived by the complainant.

441—110.9(237A) Additional requirements for group day care homes.

110.9(1) The group day care home shall provide a separate quiet area for sick children.

110.9(2) Group day care home fire safety requirements.

a. Fire extinguisher. The group day care home shall have not less than one 2A 10BC rated fire extinguisher located in a visible and readily accessible place on each child occupied floor.

b. Smoke detectors. The group day care home shall have a minimum of one single station battery operated UL approved smoke detector in each child-occupied room and at the top of every stairway. Each smoke detector shall be installed according to manufacturer's recommendations. Each smoke detector shall be tested monthly by the provider and a record kept for inspection purposes.

c. Two exits. The group day care home shall have a minimum of two direct exits to the outside from the main floor. Both a second story child-occupied floor and a basement child-occupied floor shall have in addition to one inside stairway at least one direct exit to the outside. All exits shall terminate at grade level with permanent steps. Occupancy above the second floor shall not be permitted for child care. A basement window may be used as an exit if the window is openable from the inside without the use of tools and it provides a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall be not more than 44 inches above the floor with permanent steps inside leading up to the window.

110.9(3) An individual file shall be maintained for each staff assistant and shall contain:

- a.* A completed Request for Non-Law Enforcement Record Check, Form 595-1396.
- b.* Rescinded IAB 11/10/93, effective 1/1/94.
- c.* A completed Request for Child Abuse Information, Form SS-1606-0.
- d.* A physician's signed statement at the time of employment and at least every three years thereafter that the person is free of diseases or disabilities which would prevent good child care.
- e.* Certification of a minimum of two hours of training relating to the identification and reporting of child abuse pursuant to Iowa Code section 232.69.

441—110.10(237A) Compliance checks. Twenty percent or more of all registered family day care homes, 20 percent of all group day care homes-joint registration, and 20 percent of all group day care homes in the county shall be checked during the calendar year for compliance with registration requirements contained in this division. Completed evaluation checklists shall be placed in the registration files.

441—110.11(237A) Parental access. Parents shall be afforded unlimited access to their children and to the providers caring for their children during the normal hours of operations or whenever their children are in the care of the providers, unless parental contact is prohibited by court order.

441—110.12(237A) Registration actions for nonpayment of child support. The department shall revoke or deny the issuance or renewal of a child care registration for a group child care home or group child care home-joint registration provider upon the receipt of a certificate of noncompliance from the child support recovery unit of the department according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter shall apply.

110.12(1) Service of notice. The notice required by Iowa Code section 252J.8 shall be served upon the applicant or registrant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rules of Civil Procedure 56.1. Alternatively, the applicant or registrant may accept service personally or through authorized counsel.

110.12(2) Effective date. The effective date of the revocation or denial of the registration as specified in the notice required by Iowa Code section 252J.8 shall be 60 days following service of the notice upon the applicant or licensee.

110.12(3) Preparation of notice. The department director or designee of the director is authorized to prepare and serve the notice as required by Iowa Code section 252J.8 upon the applicant or registrant.

110.12(4) Responsibilities of registrants and applicants. Registrants and registrant applicants shall keep the department informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in the actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

110.12(5) District court. A registrant or applicant may file an application with the district court within 30 days of service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9.

a. The filing of the application shall stay the department action until the department receives a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

b. For purposes of determining the effective date of the revocation, or denial of the issuance or renewal of a registration, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

110.12(6) Procedure for notification. The department shall notify the applicant or registrant in writing through regular first-class mail, or such other means as the department deems appropriate in the circumstances, within ten days of the effective date of the revocation of a registration or the denial of the issuance or renewal of a registration, and shall similarly notify the applicant or registrant when the registration is issued, renewed, or reinstated following the department's receipt of a withdrawal of the certificate of noncompliance.

110.12(7) Appeal rights. Notwithstanding Iowa Code section 17A.18, the registrant does not have the right to a hearing regarding this issue, but may request a court hearing pursuant to Iowa Code section 252J.9.

These rules are intended to implement Iowa Code sections 234.6, 237A.2 to 237A.5 as amended by 1997 Iowa Acts, Senate File 541, section 2, 237A.12, 237A.13, and 237A.15.

441—110.13 to 110.20 Reserved.

DIVISION II
FOUR-LEVEL CHILD CARE HOME REGISTRATION

PREAMBLE

The purpose of this division is to establish a pilot project for a four-level approach to child care home registration as mandated by the general assembly in 1997 Iowa Acts, Senate File 541, section 3. The pilot project shall operate in Delaware and Scott counties. The provisions of this division do not apply to unregistered family day care homes located in those two counties. Reports shall be submitted to the general assembly in February and December of 1998 regarding the feasibility of implementing the pilot project statewide.

441—110.21(237A) Definitions.

“*Adult*” means a person aged 18 or older.

“*Assistant*” means a responsible person aged 14 or older.

“*Child*” means a person under 18 years of age.

“*Child care home*” means a person registered under this division to provide child day care in a pilot project county.

“*Child day care*” means the care, supervision, or guidance of a child by a person other than the parent, guardian, relative or custodian for periods of less than 24 hours per day per child on a regular basis in a place other than the child’s home. Child day care shall not mean special activity programs that meet on a regular basis such as music or dance classes, organized athletics or sports programs, scouting programs, or hobby or craft classes or clubs.

“*Children receiving care on a part-time basis*” means children who are present in a child care home for 90 hours per month or less who are not infants.

“*Department*” means the department of human services.

“*Inclement weather exception*” means if school classes have been canceled due to inclement weather, a registered child care home may have additional children present in accordance with the authorization for the registration level of the child care home and subject to all of the following conditions:

1. The child care home has prior written approval from the parent or guardian of each child present in the child care home concerning the presence of additional children in the child care home.

2. The child care home has a responsible individual, aged 14 or older, on duty to assist the care provider as required for the registration level of the child care home.

3. One or more of the following conditions is applicable to each of the additional children present in the child care home:

- The child care home provides care to the child on a regular basis for periods of less than two hours.

- If the child was not present in the child care home, the child would be unattended.

- The child care home regularly provides care to a sibling of the child.

“*Infant*” means a child who is less than 24 months of age.

“*Parent*” means parent or legal guardian.

“*Provider*” means the adult listed on the registration certificate for a Level I through Level IV child care home, or the adult who is responsible and provides the child day care in an unregistered child care home.

“*Registration*” means the process by which child day care providers certify that they comply with rules adopted by the department.

“*Registration certificate*” means the written document issued by the department to publicly state that the provider has certified in writing compliance with the minimum requirements for registration as a Level I, Level II, Level III, or Level IV child care home.

“*School*” means kindergarten or a higher grade level.

441—110.22(237A) Application for registration. Level I, II, III, and IV child care homes shall make application for registration on Application for Child Care Home Registration, Form 470-3386, provided by the county office of the department. The child care home shall also use Form 470-3386 to inform the department of any changes in circumstances that would affect the home's registration.

441—110.23(237A) Renewal. Renewal of registration shall be completed yearly. When a provider renews registration, copies of certificates of training shall be submitted to the department to be retained in the registration file.

441—110.24(237A) Number of children. In determining the number of children cared for at any one time in a child care home, each child present in the child care home shall be considered to be receiving care unless the child is described by one of the following exceptions:

1. The child's parent, guardian, or custodian operates or established the child care home and the child is attending school or the child receives child day care full-time on a regular basis from another person.
2. The child has been present in the child care home for more than 72 consecutive hours and meets the requirements of exception "1" as though the person who operates or established the child care home is the child's parent, guardian, or custodian.

441—110.25(237A) Standards. The provider shall certify that the day care home meets the following conditions:

110.25(1) Health and safety. Conditions in the home are safe, sanitary, and free of hazards. This shall include at a minimum:

- a. A non-pay, working telephone with emergency numbers posted for police, fire, ambulance, and the poison information center. The numbers for each child's parent, for a responsible person who can be reached when the parent cannot, and for the child's physician shall be readily accessible by the telephone.
- b. All medicines and poisonous, toxic, or otherwise unsafe materials secured from access by a child.
- c. First-aid supplies which include, but are not limited to, adhesive bandages, antiseptic cleansing materials, tweezers, and disposable plastic gloves.
- d. Medications given only with the parent's or doctor's written authorization. Each prescribed medication shall be accompanied by a physician's or pharmacist's direction. Both nonprescription and prescription medications shall be in the original container with directions intact and labeled with the child's name. All medications shall be stored properly and, when refrigeration is required, shall be stored in a separate, covered container so as to prevent contamination of food or other medications. All medications shall be stored so they are inaccessible to children.
- e. Electrical wiring maintained with all accessible electrical outlets safely capped and electrical cords properly used. Improper use would include running cords under rugs, over hooks, through door openings, or other use that has been known to be hazardous.
- f. Combustible materials are kept away from furnaces, stoves, or water heaters.
- g. Safety barriers at stairways for children not attending kindergarten or a higher grade level and for special needs children.
- h. A safe outdoor play area maintained in good condition throughout the year, fenced off when located on a busy thoroughfare or near a hazard which may be injurious to a child, and with both sunny and shaded areas. The play area shall be kept free from litter, rubbish, and flammable materials and shall be free from contamination by drainage or ponding of sewage, household waste, or storm water.

i. Annual laboratory analysis of a private water supply to show satisfactory bacteriological quality. When children under the age of two are to be cared for, the analysis shall include a nitrate analysis. When private water supplies are determined unsuitable for drinking, commercially bottled water or water treated through a process approved by the health department or designee shall be provided.

j. Emergency plans in case of fire or tornado written and posted by the primary and secondary exits. The plans shall include a diagram with the exits and an outside meeting place noted.

k. Fire and tornado drills practiced monthly and documentation evidencing compliance with monthly practice kept on file by the provider.

l. In order to prevent burns, a safety barrier shall surround any heating stove or heating element.

110.25(2) Activity program. There shall be an activity program which promotes self-esteem and exploration and includes:

a. Active play.

b. Quiet play.

c. Activities for large muscle development.

d. Activities for small muscle development.

e. Play equipment and materials in a safe condition, for both indoor and outdoor activities which are developmentally appropriate for the ages and number of children present.

110.25(3) Certificate of registration. The certificate of registration shall be displayed in a conspicuous place.

110.25(4) Discipline. Discipline shall conform to the following standards:

a. Discipline shall be designed to help the child develop self-control, self-esteem, and respect for the rights of others.

b. Corporal punishment including spanking, shaking and slapping shall not be used.

c. Punishment which is humiliating or frightening or which causes pain or discomfort to the child shall not be used.

d. Punishment shall not be administered because of a child's illness, or progress or lack of progress in toilet training, nor shall punishment or threat of punishment be associated with food or rest.

e. No child shall be subjected to verbal abuse, threats, or derogatory remarks about the child or the child's family.

110.25(5) Meals. Regular meals and midmorning and midafternoon snacks shall be provided which are well balanced, nourishing, and in appropriate amounts as defined by the USDA Child and Adult Care Food Program. Children may bring food to the day care home for their own consumption, but shall not be required to provide their own food.

110.25(6) Parental access. Parents are afforded unlimited access to their children and to the providers caring for their children during the normal hours of operation or whenever their children are in the care of the providers, unless parental contact is prohibited by court order.

110.25(7) Children's files. An individual file shall be maintained for each child and updated annually or when the provider becomes aware of changes. The file shall contain:

a. Identifying information including, at a minimum, the child's name, birth date, parent's name, address, telephone number, special needs of the child, and the parent's work address and telephone number.

b. Emergency information including, at a minimum, where the parent can be reached, the name and telephone number of the child's regular source of health care, and the name, telephone number, and relationship to the child of another adult available in case of emergency.

c. A signed medical consent from the parent authorizing emergency treatment.

d. For each preschool-age child, on the first day of attendance, an admission physical examination report signed by a licensed physician or designee in a clinic supervised by a licensed physician. The date of the physical examination shall not be more than 12 months prior to the first day of attendance at the day care home. The written report shall include past health history, status of present health, allergies and restrictive conditions, and recommendations for continued care when necessary.

e. A statement of health condition signed by a physician or designee shall be thereafter submitted annually from the date of the admission physical.

f. A list signed by a parent which names persons authorized to pick up the child. The authorization shall include the name, telephone number, and relationship of the authorized person to the child.

g. A signed and dated immunization card provided by the state department of public health shall be on file for each child enrolled. For the school-age child, a copy of the most recent immunization record shall be acceptable.

h. For each school-age child, on the first day of attendance, documentation of a physical examination that was completed at the time of school enrollment or since.

i. Written permission from the parents for their child to attend activities away from the day care home. The permission shall include:

- (1) Times of departure and arrival.
- (2) Destination.
- (3) Persons who will be responsible for the child.

110.25(8) *Assistant file.* An individual file shall be maintained for each staff assistant and shall contain:

- a. A completed DHS Criminal History Record Check, Form B, 595-1396.
- b. A completed Request for Child Abuse Information, Form SS-1606-0.
- c. A physician's signed statement at the time of employment and at least every three years thereafter that the person is free of diseases or disabilities which would prevent good child care.
- d. Certification of a minimum of two hours of training relating to the identification and reporting of child abuse within six months of employment and every five years thereafter pursuant to Iowa Code section 232.69.

110.25(9) *Provider file.* A provider file shall be maintained and shall contain the following:

a. A physician's signed statement obtained at the time of the first registration, and at least every three years thereafter, on all members of the provider's household that may be present when children are in the home, that the provider and members of the provider's household are free of diseases or disabilities which would prevent good child care. This applies to providers of Levels I, II, III, and IV, and the assistant in a Level IV home.

b. Certificates or training verification documentation for the following required training:

- (1) During the first three months of registration, the provider shall receive:
 1. Two hours of child abuse and neglect mandatory reporter training.
 2. Certification in American Red Cross or American Heart Association infant, child, and adult cardiopulmonary resuscitation (CPR) or equivalent CPR certification approved by the department.
 3. Certification in American Red Cross infant, child, and adult first-aid or equivalent certification approved by the department.

(2) During the first year of registration, the provider shall receive two hours of health and safety training.

(3) During the second year of registration and each succeeding year, the provider shall receive a minimum of 10 hours of training for Level I, 12 hours for Levels II and III, and 15 hours for Level IV, chosen from the following categories:

1. Ages and stages.
 2. Developmentally appropriate programming.
 3. Guidance and discipline.
 4. Nutrition.
 5. Business practices.
- (4) In addition, the provider shall keep current:
1. Two hours of child abuse and neglect mandatory reporter training every five years.
 2. CPR training to maintain certification annually.
 3. First-aid training to maintain certification every three years.

441—110.26(237A) Provider. The provider shall meet the following requirements:

1. Gives careful supervision at all times.
2. Frequently exchanges information with the parent of each child to enhance the quality of care.
3. Gives consistent, dependable care and is capable of handling emergencies. The provider shall maintain a valid first-aid and cardiopulmonary resuscitation (CPR) certificate to be completed within one year of registration.
4. Is present at all times except if emergencies occur or when an absence is planned, at which time good substitute care is provided. When an absence is planned, the parents shall be given at least 24 hours' prior notice.

441—110.27(237A) Specific requirements for individual levels of child care homes.

110.27(1) Level I registration.

a. Number of children.

(1) Except as otherwise provided in this paragraph, not more than six children shall be present at any one time.

(2) Not more than three children who are infants shall be present at any one time.

(3) In addition to the number of children authorized in subparagraph (1), not more than two children who attend school may be present for a period of less than two hours at any one time.

(4) Not more than eight children shall be present at any one time when an inclement weather exception is in effect.

b. Provider qualifications. The provider of Level I child care shall meet the following requirements:

(1) Must be at least 18 years old.

(2) Must have three written references which attest to character and ability to provide child care.

110.27(2) Level II registration.

a. Number of children.

(1) Except as otherwise provided in this paragraph, not more than six children shall be present at any one time.

(2) Not more than three children who are infants shall be present at any one time.

(3) In addition to the number of children listed in subparagraph (1), not more than four children who attend school may be present for a period of less than two hours at any one time.

(4) In addition to the number of children authorized in subparagraph (1), not more than two children who are receiving care on a part-time basis may be present.

(5) Not more than 12 children shall be present at any one time when an inclement weather exception is in effect. However, if more than 8 children are present during an inclement weather exception, the provider shall be assisted by a responsible individual who is at least 14 years of age.

b. Facility requirements. There shall be a minimum of 35 square feet of child use floor space for each child in care indoors.

c. Provider qualifications. The provider of Level II child care shall meet the following requirements:

(1) Must be at least 19 years old.

(2) Must have a high school diploma or GED.

(3) Must meet one of the following requirements:

1. Have two years of experience working directly with children in child care.

2. Have one year of experience working directly with children from birth through the age of 12 and one year of experience at Level I.

3. Have a child development associate degree or any two- or four-year degree in a child care related field and one year of experience at Level I.

d. *Training.* In addition to the minimum requirements specified at subparagraph 110.25(9) "b"(3), the provider of Level II child care shall receive an additional two hours of training per year, chosen from the categories listed.

110.27(3) Level III registration.

a. *Number of children.*

(1) Except as otherwise provided in this paragraph, not more than six children shall be present at any one time.

(2) Not more than three children who are infants shall be present at any one time.

(3) In addition to the number of children authorized in subparagraph (1), not more than four children who attend school may be present.

(4) In addition to the number of children authorized in subparagraph (1), not more than two children who are receiving care on a part-time basis may be present.

(5) Not more than 12 children shall be present at any one time when an inclement weather exception is in effect.

(6) If more than eight children are present at any one time, the provider must be assisted by a responsible individual who is at least 14 years of age.

b. *Facility requirements.*

(1) There shall be a minimum of 35 square feet of child use floor space for each child in care indoors, and a minimum of 50 square feet per child in care outdoors.

(2) There shall be a separate quiet area for sick children.

(3) The following fire safety requirements shall be met:

1. Fire extinguisher. The child day care home shall have not less than one 2A 10BC rated fire extinguisher located in a visible and readily accessible place on each child-occupied floor.

2. Smoke detectors. The child day care home shall have a minimum of one single-station, battery-operated, UL-approved smoke detector in each child-occupied room and at the top of every stairway. Each smoke detector shall be installed according to manufacturer's recommendations. Each smoke detector shall be tested monthly by the provider and a record kept for inspection purposes.

3. Two exits. The child care home shall have a minimum of two direct exits to the outside from the main floor. Both a second story child-occupied floor and a basement child-occupied floor shall have in addition to one inside stairway at least one direct exit to the outside. All exits shall terminate at grade level with permanent steps. Occupancy above the second floor shall not be permitted for child care. A basement window may be used as an exit if the window is openable from the inside without the use of tools and it provides a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall be not more than 44 inches above the floor with permanent steps inside leading up to the window.

c. *Provider qualifications.* The provider of Level III child care shall meet the following requirements:

(1) Must be at least 21 years old.

(2) Must meet one of the following requirements:

1. Have two years of experience at Level I, and two years of experience at Level II.
2. Have one year of experience working directly with children from birth through the age of 12 and one year of experience at Level I and two years of experience at Level II.
3. Have a child development associate degree or any two- or four-year degree in a child care related field and one year of experience at Level I and two years of experience at Level II.

d. *Training.* In addition to the minimum requirements specified at subparagraph 110.25(9) "b"(3), the provider of Level III child care shall receive an additional two hours of training per year, chosen from the categories listed.

110.27(4) Level IV registration.

a. *Number of children.*

(1) Except as otherwise provided in this paragraph, not more than 12 children shall be present at any one time. If more than 8 children are present, a second person must be present who meets the individual qualifications for child care home registration.

(2) Of the above number, not more than four children who are infants shall be present at any one time.

(3) In addition to the number of children authorized in subparagraph (1), not more than two children who attend school may be present for a period of less than two hours at any one time.

(4) In addition to the number of children authorized in subparagraph (1), not more than two children who are receiving care on a part-time basis may be present.

(5) Not more than 16 children shall be present at any one time when an inclement weather exception is in effect. If more than 8 children are present at any one time during an inclement weather exception, the provider shall be assisted by a responsible individual who is at least 18 years of age.

b. *Facility requirements.*

(1) There shall be a minimum of 35 square feet of child use floor space for each child in care indoors, and a minimum of 50 square feet per child in care outdoors.

(2) There shall be a separate quiet area for sick children.

(3) The following fire safety requirements shall be met:

1. Fire extinguisher. The child day care home shall have not less than one 2A 10BC rated fire extinguisher located in a visible and readily accessible place on each child-occupied floor.

2. Smoke detectors. The child day care home shall have a minimum of one single-station, battery-operated, UL-approved smoke detector in each child-occupied room and at the top of every stairway. Each smoke detector shall be installed according to manufacturer's recommendations. Each smoke detector shall be tested monthly by the provider and a record kept for inspection purposes.

3. Two exits. The child care home shall have a minimum of two direct exits to the outside from the main floor. Both a second story child-occupied floor and a basement child-occupied floor shall have in addition to one inside stairway at least one direct exit to the outside. All exits shall terminate at grade level with permanent steps. Occupancy above the second floor shall not be permitted for child care. A basement window may be used as an exit if the window is openable from the inside without the use of tools and it provides a clear opening of not less than 20 inches in width, 24 inches in height and 5.7 square feet in area. The bottom of the opening shall be not more than 44 inches above the floor with permanent steps inside leading up to the window.

c. *Provider qualifications.* The provider of Level IV child care shall meet the following requirements:

(1) Must be at least 21 years old.

(2) Must meet one of the following requirements:

1. Have two years of experience at Level I and two years of experience at Level II and one year of experience at Level III.

2. Have one year of experience working directly with children and one year of experience at Level I and two years of experience at Level II and one year of experience at Level III.

3. Have a child development associate degree or any two- or four-year degree in a child care related field and one year of experience at Level I and two years of experience at Level II and one year of experience at Level III.

d. Training. In addition to the minimum requirements specified at subparagraph 110.25(9)“b”(3), the provider of Level IV child care shall receive an additional five hours of training per year, chosen from the categories listed.

110.27(5) Exception to total numbers. A child day care home may be registered at Level II, III, or IV if the provider is qualified even though the amount of space required to be available for the maximum number of children authorized for that level exceeds the actual amount of space available in that child care home. The total number of children authorized for the child care home at that level of registration shall be limited by the amount of space available per child. The basic number of children permitted for each age group may not be exceeded.

441—110.28(237A) List of registered homes. The county offices of the department shall maintain a current list of registered child care homes as a referral service to the community.

441—110.29(237A) Compliance checks. Twenty percent or more of each level of registered child day care homes in the county shall be checked during the calendar year for compliance with registration requirements contained in this division.

441—110.30(237A) Complaints. A record of all unsubstantiated complaints received shall be kept by the department in a closed file, and there shall be documented resolutions of all complaints. Contents of this file shall be available to the registered provider except that disclosure of the identity of the complainant shall be withheld unless expressly waived by the complainant. A record of all substantiated complaints and regulatory violations shall be kept by the department in the regulatory file and shall be available to the public upon request, except that disclosure of the identity of the complainant shall be withheld unless expressly waived by the complainant.

441—110.31(237A) Record checks. The department shall submit record checks for each registrant, staff member, and anyone living in the home who is 14 years of age or older to determine whether the person has any founded child abuse reports or criminal convictions. Form SS-1606-0, Request for Child Abuse Information, and Form 595-1396, DHS Criminal History Record Check, Form B, shall be used for this purpose.

110.31(1) Evaluation of record. If there is a record of founded child abuse or a criminal conviction for the registrant, a staff member, or anyone living in the home, the registration shall be denied or revoked, unless an evaluation of the abuse or crime determines that the abuse or criminal conviction does not warrant prohibition of registration. In an evaluation, the department and the registrant for an employee of the registrant shall consider the nature and seriousness of the abuse or crime, the time elapsed since the commission of the abuse or crime, the circumstances under which the crime or abuse was committed, the degree of rehabilitation, the likelihood that the person will commit the abuse or crime again, and the number of crimes or abuses committed by the person. The person with the criminal conviction or founded child abuse report shall complete and return Form 470-2310, Record Check Evaluation, within ten calendar days of the date on the form to be used to assist in the evaluation. Failure of the person to complete and return the form within the specified time frame shall result in denial or revocation of the certificate.

110.31(2) Conditional requirements. The department may permit a person who is evaluated to be registered, employed, or to reside in, or to continue to be registered, employed, or to reside in a registered facility, if the person complies with the department's conditions relating to the person's registration, employment, or residence, which may include completion of additional training. For an employee of a registrant, these conditional requirements shall be developed with the registrant. The department has final authority in determining whether prohibition of the person's registration, employment, or residence is warranted and in developing any conditional requirements.

110.31(3) Evaluation process.

a. If the registrant, staff member, or anyone living in the home has been convicted of a simple misdemeanor or of a serious misdemeanor that occurred five or more years prior to the application, the evaluation and decision may be made by the regional administrator or designee and the registrant for an employee of the registrant. The regional administrator or designee shall notify the registrant and the employee of the registrant of the results of the evaluation using Form 470-2386, Record Check Decision.

b. If the registrant, staff member, or anyone living in the home has a founded abuse report, has been convicted of an aggravated misdemeanor or felony at any time, or has been convicted of a simple or serious misdemeanor that occurred within five years prior to application, the evaluation shall be initially conducted by the regional administrator or designee and the registrant for an employee of the registrant.

(1) If the regional administrator or designee and the registrant for an employee of the registrant determine that the crime or abuse does warrant prohibition of registration, the regional administrator or designee shall notify the individual on whom the evaluation was completed, and the registrant for an employee of the registrant of the results of the evaluation using Form 470-2386, Record Check Decision.

(2) If the regional administrator or designee and the registrant for an employee of the registrant believe that the abuse or criminal conviction should not warrant prohibition of registration, the regional administrator or designee shall provide copies of the child abuse report or criminal history record, Form 470-2310, Record Check Evaluation, and Form 470-2386, Record Check Decision, to the Department of Human Services, Administrator, Division of Adult, Children and Family Services, Hoover State Office Building, Des Moines, Iowa 50319-0114. Within 30 days the administrator shall determine whether the abuse or crime merits prohibition of registration, and shall notify the regional administrator or designee in writing of that decision. The regional administrator or designee shall notify the individual on whom the evaluation was completed, and the registrant for an employee of the registrant using Form 470-2386.

441—110.32(237A) Denials and revocations.

110.32(1) Reason for denial or revocation. Registration shall be denied or revoked if a hazard to the safety and well-being of a child is found by the department, and the provider cannot or refuses to correct the hazards, even though the hazard may not have been specifically listed under the health and safety rules.

110.32(2) Documentation. Record shall be kept in an open file of all denials or revocations of registration and the documentation of reasons for denying or revoking the registration.

441—110.33(237A) Letter of revocation. A letter received by an owner or operator of a registered child care home initiating action to deny or revoke the child care home's registration shall be conspicuously posted where it can be read by parents or any member of the public. The letter shall remain posted until resolution of the action to deny or revoke an owner's or operator's certificate of registration.

441—110.34(237A) Sanction period. If the department has denied or revoked a registration because the provider has continually or repeatedly failed to operate a registered child care home in compliance with Iowa Code chapter 237A and 441—Chapter 110, the person shall not own or operate a registered facility for a period of six months from the date the registration is denied or revoked. The department shall not act on an application for registration submitted by the applicant or provider during the six-month period.

441—110.35(237A) Transition exception. The exception provisions of this rule are applicable to child care homes registering under Iowa Code Supplement section 237A.3A during a transition period beginning April 20, 1998, and ending April 19, 2000. During the transition period, the following provisions shall apply, notwithstanding the previous specific rules:

110.35(1) Infant care. A child care home provider who is providing child day care to four infants at the time of registration in the pilot project at Level I, II, or III may continue to provide care to those four infants. However, when the child care home no longer provides care to one or more of the infants or one or more of the infants reaches the age of 24 months, the transition period exception authorized in this rule shall no longer apply. The overall limitation on the number of children authorized for the level of care remains applicable.

110.35(2) Care of school-age children. A child care home provider who at the time of registration in the pilot project at Level I, II, or III is providing child day care to school-age children in excess of the number of school-age children authorized for the registration level may continue to provide care for those children. The child care home provider may exceed the total number of children authorized for the level of registration by the number of school-age children in excess of the number authorized for the registration level. This transition period exception is subject to all of the following:

- a. The provider must comply with the other requirements as to the number of children which is applicable to that registration level.
- b. The maximum number of children attributable to the authorization for school-age children at the applicable registration level is five.
- c. If more than eight children are present at any one time, the provider shall be assisted by a responsible person who is at least 14 years of age.
- d. If the child care home no longer provides care to an individual school-age child who was receiving care at the time of the registration, the excess number of children allowed under the transition period exception shall be reduced accordingly.

441—110.36(237) Registration actions for nonpayment of child support. The department shall revoke or deny the issuance or renewal of a child care registration for a Level II, III, or IV child care home upon the receipt of a certificate of noncompliance from the child support recovery unit of the department according to the procedures in Iowa Code chapter 252J. In addition to the procedures set forth in Iowa Code chapter 252J, the rules in this chapter shall apply.

110.36(1) Service of notice. The notice required by Iowa Code section 252J.8 shall be served upon the applicant or registrant by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rules of Civil Procedure 56.1. Alternatively, the applicant or registrant may accept service personally or through authorized counsel.

110.36(2) *Effective date.* The effective date of the revocation or denial of the registration as specified in the notice required by Iowa Code section 252J.8 shall be 60 days following service of the notice upon the applicant or licensee.

110.36(3) *Preparation of notice.* The department director or designee of the director is authorized to prepare and serve the notice upon the applicant or registrant as required by Iowa Code section 252J.8.

110.36(4) *Responsibilities of registrants and applicants.* Registrants and registrant applicants shall keep the department informed of all court actions, and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the department copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in the actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

110.36(5) *District court.* A registrant or applicant may file an application with the district court within 30 days of service of a department notice pursuant to Iowa Code sections 252J.8 and 252J.9.

a. The filing of the application shall stay the department action until the department receives a court order lifting the stay, dismissing the action, or otherwise directing the department to proceed.

b. For purposes of determining the effective date of the revocation, or denial of the issuance or renewal of a registration, the department shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

110.36(6) *Procedure for notification.* The department shall notify the applicant or registrant in writing through regular first-class mail, or such other means as the department deems appropriate in the circumstances, within ten days of the effective date of the revocation of a registration or the denial of the issuance or renewal of a registration, and shall similarly notify the applicant or registrant when the registration is issued, renewed, or reinstated following the department's receipt of a withdrawal of the certificate of noncompliance.

110.36(7) *Appeal rights.* Notwithstanding Iowa Code section 17A.18, the registrant does not have the right to a hearing regarding this issue, but may request a court hearing pursuant to Iowa Code section 252J.9.

These rules are intended to implement Iowa Code Supplement chapter 237A as amended by 1998 Iowa Acts, Senate File 2312.

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